

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

ALCAPONE ALO,

Plaintiff,

v.

CAROLE GOLDSMITH, *et al.*,

Defendants.

Case No. 1:23-cv-0536 JLT SAB

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS, DISMISSING THE  
ACTION, AND DIRECTING CLERK OF  
COURT TO CLOSE CASE

(Doc. 9)

The magistrate judge screened Plaintiff's complaint and found the complaint did not state a cognizable claim. (Doc. 7.) The Court served the on Plaintiff, and it notified him that he was required to file an amended complaint within 30 days. (*Id.*) The Court further indicated: "[i]f Plaintiff fails to file a first amended complaint in compliance with this order, the Court will recommend to the district judge that this action be dismissed, with prejudice, for failure to obey a court order, failure to prosecute, and for failure to state a claim." (*Id.* at 22 (emphasis omitted).) Plaintiff did not file an amended complaint and did not otherwise respond to the Court's order or file any additional documents with the Court.

On June 28, 2023, the magistrate judge found Plaintiff failed to prosecute the action and failed to comply with the Court's order. Therefore, the magistrate judge recommended the complaint be dismissed for failure to state a cognizable claim, and the action be dismissed for Plaintiff's failure to prosecute and failure to comply. (Doc. 9.) The Court served the Findings

1 and Recommendations were the same date. On August 9, 2023, the document was returned as  
2 undeliverable.

3 Pursuant to 28 U.S.C. § 636 (b)(1)(C), this Court has conducted a *de novo* review of the  
4 case. Having carefully reviewed the entire file, the Court concludes that the findings and  
5 recommendations are supported by the record and by proper analysis. Moreover, Local Rule  
6 183(b) requires a plaintiff to keep the Court apprised of his current address, and provides: “if such  
7 plaintiff fails to notify the Court and opposing parties within sixty-three (63) days thereafter of a  
8 current address, the Court may dismiss the action without prejudice for failure to prosecute.”  
9 Because more 63 days have elapsed since the Postal Service returned the Findings and  
10 Recommendations as undeliverable, Plaintiff also failed to comply with Local Rule 183(b) and  
11 dismissal is appropriate on for this reason as well. *See e.g., Ghazali v. Moran*, 46 F.3d 52, 53-54  
12 (9th Cir. 2995) (dismissal for failure to comply with local rules); *Henderson v. Duncan*, 779 F.2d  
13 1421, 1424 (9th Cir. 1986) (dismissal for failure to prosecute and failure to comply with local  
14 rules). Thus, the Court **ORDERS**:

- 15 1. The Findings and Recommendations issued on June 28, 2023 (Doc. 9), are  
16 **ADOPTED IN FULL**.
- 17 2. This action is **DISMISSED** with prejudice for Plaintiffs failure to state a claim,  
18 failure to prosecute, and failure to comply with the Court’s order.
- 19 3. The Clerk of Court is directed to close this case.

20  
21 IT IS SO ORDERED.

22 Dated: **September 6, 2023**

  
UNITED STATES DISTRICT JUDGE